

25 May 2012

To: John R. Read,  
Chief, Litigation III Section,  
United States Department of Justice,  
450 5th St NW,  
Suite 4000,  
Washington DC 20530

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LITIGATION III, ANTITRUST DIV.  
U.S. DEPT OF JUSTICE

**Re: Proposed Settlement in E-Book Pricing Case**

Dear Mr. Read:

I'm sure you will have already received plenty of letters regarding the terms of the proposed settlement; I would like to apologize at the outset for adding to the pile.

I felt it necessary to contact you, however, as I fear that the multiple letter-writing campaigns aimed at influencing the presiding judge may give the impression that authors and publishers (and readers) are uniformly opposed to the terms of the settlement.

As an author and publisher (and reader) I can assure you that this is not the case.

Unlike some of the publishers named in the suit, I'm not part of a major media conglomerate that owns newspapers and television stations around the globe. I'm a one-man operation who set up a publishing company to release my own books.

I'm far from unique. There are thousands and thousands of writers just like me – writers who couldn't get their books published by the conventional route who then self-published their work and reached thousands of readers.

A few short years ago, this was not a viable path. Self-publishing was expensive, difficult, and risky. The rise of e-books enabled thousands of writers like me to bypass the middlemen – literary agents, publishers, distributors – and sell direct to retailers and readers. Without the presence of all these middlemen taking a cut, I can sell books very cheaply and still make a good profit.

This disintermediation benefits authors and readers directly. Readers have more books to choose from, and when they choose books published by independent authors, they are almost always significantly less expensive than titles from the defending publishers.

It's similar to what has transpired in many businesses since the rise of the Internet. All kinds of middlemen – such as travel agents and insurance brokers – have gone from being indispensable to optional, and face the accordingly challenging business conditions.

Publishers and literary agents are no different. Writers no longer need them to reach readers. Instead, they can publish their own work, sell books at cheaper prices, and make more money.

The kind of disruption caused by the Internet is often messy. Not everyone comes out a winner. As such, vocal resistance is to be expected, especially from those who do quite well under the status quo.

One such group are best-sellers like Scott Turow, the President of the Authors Guild – an organization that claims to represent the interests of writers. Another such group are literary agents like Gail Hochman, the President of the Association of Authors' Representatives – an organization of literary agents, which also claims to represent the interests of writers.

To be clear, neither organization speaks for me. And, in my opinion, it's fear of change, fear of competition, that drives literary agents and publishers (and best-selling authors) to support the Agency model and disingenuously claim it benefits readers.

I don't know if the publishers named in the suit (and Apple) colluded to fix prices, however, unlike the Authors Guild and the Association of Authors' Representatives I don't believe that means that we should simply throw our hands in the air and move on. I believe the judge is perfectly capable of making such a determination.

If the chain of events laid out by the Department of Justice is accepted by the court (and the case seems compelling to this layman), then I also don't believe that the terms of the proposed settlement are too onerous. Law-breaking should be punished, not swept under the carpet.

Personally, I believe that the actions the defending publishers and Apple are alleged to have undertaken, and the subsequent defense of those alleged actions by the Authors Guild and the Association of Authors' Representatives (and the respective defendants) are motivated by fear.

The world is changing and they don't like it. Amazon, as the prime mover in facilitating those changes, is the primary target of their ire. I don't share their apparent hatred of Amazon. From where I stand, Amazon has done more to make self-publishing a viable path than any other company (something which

benefits authors through increased paths to publication and readers through a greater selection and lower prices).

I don't think Amazon has done this because they have any favorable disposition towards self-publishing per se, rather I think that this was a (happy, for me) by-product of their support of the digital revolution and their customer focus.

More than any other company, Amazon made e-reading attractive, widespread, and cheap. This has come at the expense of reading books in print – a market which was controlled by companies such as the publishers named in the suit.

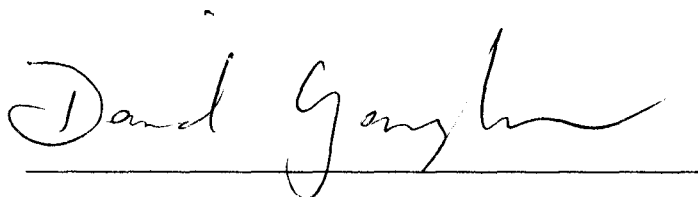
What is replacing it is something very different: an open market with thousands and thousands of competitors for the defending publishers (and those competitors are able to compete largely because of Amazon's self-publishing platform – KDP – where independent authors can set their own prices and reach readers all over the world).

This, I submit, is the real reason these publishers (seem to) hate Amazon: because Amazon is creating, for the first time, real competition in publishing by facilitating and encouraging the switch from print to digital, and giving new competitors the tools and platform to really compete with the existing players.

It seems the defending publishers sought to slow this transition by forcing higher prices on Amazon and their customers (and by extension, the customers of every other retailer). In my opinion, this shows contempt, both for the readers who purchase their books and for the authors whose sales have suffered as a result of these artificially higher prices.

I trust the DOJ will pass on this letter to the presiding judge and that the only voices heard in relation to the proposed settlement won't be those orchestrated by the global media conglomerates (which own a controlling interest in some of the defending publishers).

Regards,

A handwritten signature in cursive script, reading "David Gaughran". The signature is written in black ink and is positioned above a horizontal line.

**David Gaughran, Author and Publisher (and Reader)**

Burten Lodge, Grove Road, Malahide, Co. Dublin, Ireland

/attached: list of co-signees

P.S. After I posted this letter on my blog, the following 173 authors/publishers asked if they could co-sign the letter. For verification purposes, you can see their names posted here:

<http://davidgaughran.wordpress.com/2012/05/15/an-open-letter-to-the-doj-from-someone-who-actually-cares-about-writers-and-readers/>

Valle Bower, Phillip M. Bryant, Charles W. Bucket, J.J. Toner, Timothy Lyle Jeffcoat, Arshad Ahsanuddin, John H. Carroll, Jaye W. Manus, Lexi Revellian, Karen A. Wyle, Amy Tupper, Melissa Smith, Michael Prescott, Joseph M. Ratliff, James Bruno, Alicia Butcher Ehrhardt, Jolea M. Harrison, Louis Behiel, Levi Montgomery, Patti Ann Colt, Sandra Ulbrich Almazan, Marsha Canham, Jason Kristopher, Etta-Tamara M. Wilson, Aric Mitchell, Barry Eisler, Lynn Siprelle (pen name: MeiLin Miranda), Joe Vasicek, Bridget McKenna, Widow Dyer, Dan DeWitt, Alain Burrese, Brondt Kammfer, L.J. Sellers, Stephanie Abbott, Kane Gilmour, Tim Byrd, Terry Shames, Derek J. Canyon, Anthea Lawson, Laura Taylor, Benjamin Cheah, Ann Duran, Tony James Slater, Robert E. McDermott, Edward G. Talbot, Jeremy Brown, Rachel Bicha, Gayla L. Drummond, Karen Cantwell, Mike Cooley, Jason Otoski, Brendan Stallard, Debora Geary, Monique Martin, Deborah Reed, David Stoddard, J.D. Hughes, Joe Konrath, Michael Matewauk, Peg Brantley, Rich Cook, Kathleen A. Jordan, Greg James, C.J. West, Camille LaGuire, Charles Sheehan-Miles, Jocelyn Koehler, Tammy Cravit, Christine Keleny, Katherine Bayless, Aron White, Matthew Turner, Tyler Wills, Shea MacLeod, Suzan Tinsdale, Jody Payne, Heather E. Ripkey, Robert Townsend, James Stubbs, Elle Casey, Caddy Rowland, Amy Edelman, J.R. Tomlin, Micki Street, Jessica Vanderklok, Ruth Nestvold, Kate Rose, Jan Hurst-Nicholson, Maria Romana, Davy Jones, J.M. Madden, Traci L. Hohenstein, Jill Schultz, M. Louisa Locke, Shaun Kilgore, Scott Gray, Michael E. Walston, Michael Kingswood, Jonathan Dalar, Kimberly D. Meyer, Niko Silvester, John D. Glass, Christine Kling, Matthew Iden, Katherine Owen, Faith Freewoman, Brian J. Harrett, Daphne Riordan, Tim Tash, Leslea Tash, Robert J. McCarter, Cidney Swanson, Tarah Scott, Gregory Lynn, John Darrow, Lauren Royal, Claire Merriam Hoffman, Suzanne Korb, Leslie Claire Walker, Susan Russo Anderson, Rebecca M. Senese, Jason Scott Gleason, Patricia Neiger, Jennifer Powell, Adrian Phoenix, Gerald M. Weinberg, Susan J. Kroupa, Laney McMann, Kevin O. McLaughlin, Andrea Pearson, Nathan Mayer, Patrice M. Fitzgerald Esq., Steven Mohan Jr., Stephen Galvin, Stephanie Witt, Dawn Frederick, Jessica Ney-Grimm, Lyn Worthen, Trish McCallan, Marta Szemik, Laura J. Hardy, Tori Minard, Erin M. Harshorn, Renee Pawlish, Daniel J. Meadows, Katherine Smith, Carolyn Nicita, Kate Coady, Pati Nagle, Gail Reinhart, A. Peter Perdian, Pete Morin, Sabrina Chase, Don Nutting, S. V. Rowle, Janet Dawson, Penelope J. Barber-Schwartz, Mira Shannon, Joe Cron, Stephen Knight, Ron Mueller, B. Justin Shier, David H. Hendrickson, Angela McGill, Sheila

**Guthrie, Sariah Wilson, Jeffrey D. Currie, Adam Green, Yves Hanouille, Christine Frost, L.J. Kirk, Suzan Harden.**

In addition, the following 13 authors/publishers emailed me privately and asked to co-sign the letter:  
**Karin Cox, Melissa F. Miller, Keith West, Barbara G.Tarn, Ryan Petty, David Leigh Shutter, Donald A. Donaldson, Colleen Kuehne, A.E. Marling, Helen Benoit, Tiffani Collins, Jeff Schajer, Alicia Rasley**